

part because King George “has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws.”

After a long and bloody revolution, we earned the right at last to be free of such foreign control. Rather, it was we the people of the United States who then ordained and established a Constitution of the United States and our predecessors, our forefathers, specifically included a mechanism by which we the people of the United States could change it by amendment, if necessary.

Of course, every judge who serves on a Federal court swears to an oath to “faithfully and impartially discharge and perform all the duties incumbent upon me . . . under the Constitution and laws of the United States, so help me God.”

As you can tell, I am concerned about this trend. I am concerned that this trend may reflect a growing distrust amongst legal elites—not only a distrust of our constitutional democracy, but a distrust of the American people and America itself.

As every high school civics student knows, the job of a judge is pretty straightforward. Judges are supposed to follow the law, not rewrite it. Judges are supposed to enforce and apply political decisions that are made in Congress and that are signed into law by the President of the United States. Judges are not supposed to make those decisions or substitute their own judgments or those political judgments hashed out in the legislative process in this body and this Capitol. The job of a judge is to read and obey the words contained in our laws and in our judicial precedents—not the laws and precedents of foreign governments, which have no authority over our Nation or the American people.

I am concerned that some judges who simply don't like our laws—and they don't like the decisions made by Americans through their elected representatives here about what those laws should be—are using this as another way to justify their decision to overreach. So it appears they would rather rewrite the law from the bench. What is especially disconcerting is that some judges today may be departing so far from American law, from American principles, and from American traditions that the only way they can justify their rulings is to cite the law of foreign countries, foreign governments, and foreign cultures, because there is nothing left for them to cite for support in this country.

Citing foreign law in order to overrule U.S. policy offends our democracy because foreign lawmaking is obviously in no way accountable to the American people. Here again—and I started out by saying I am not condemning all Federal judges; I have great respect for the Federal judiciary—I am not condemning international law. Obviously, there is a way by which international law can apply

to the United States, and that is through the treaty process, which is, of course, subject to ratification by the U.S. Congress.

There is an important role for international law in our system, but it is a role that belongs to the American people through the political branches—the Congress and the President—to decide what that role should be and indeed what that law should be; it is not a role given to our courts. Article I of the U.S. Constitution gives the Congress, not the courts, the authority to enact laws punishing “Offenses against the Law of Nations,” and article II of the Constitution gives the President the power to ratify treaties, subject to the advice and consent and the approval of two-thirds of the Senate. Yet our courts appear to be, in some instances, overruling U.S. law by citing foreign law decisions in which the U.S. Congress had no role and citing treaties that the President and the U.S. Senate have refused to approve.

To those who might say there is nothing wrong with simply trying to bring U.S. laws into consistency with other nations, I say this: This is not a good faith attempt to bring U.S. law into global harmony. I fear that, in some instances, it is simply an effort to further a political or ideological agenda, because the record suggests that this sudden interest in foreign law is more ideological than legal; it seems selective, not principled.

U.S. courts are following foreign law, it seems, inconsistently—only when needed to achieve a particular outcome that a judge or justice happens to desire but that is flatly inconsistent with U.S. law and precedent. Many countries, for example, have no exclusionary rule to suppress evidence that is otherwise useful and necessary in a criminal case. Yet our courts have not abandoned the exclusionary rule in the United States, relying upon the greater wisdom and insight of foreign courts and foreign nations. I might add that very few countries provide abortion on demand. Yet our courts have not abandoned our Nation's constitutional jurisprudence on that subject. Four Justices of the Supreme Court believe that school choice programs that benefit poor urban communities are unconstitutional if parochial schools are eligible, even though other countries directly fund religious schools.

Even more disconcerting than the distrust of our constitutional democracy is the distrust of America itself. I would hope that no American—and certainly no judge—would ever believe that the citizens of foreign countries are always right and that America is always wrong. Yet I worry that some judges become more and more interested in impressing their peers in foreign judiciaries and foreign governments and less interested in simply following the U.S. Constitution and American laws. At least one U.S. Supreme Court Justice mentioned publicly—and Justice Ginsburg's com-

ments were reported on April 2 in the New York Times. A Justice has stated that following foreign rulings rather than U.S. rulings “may create that all important good impression,” and therefore, “over time, we will rely increasingly . . . on international and foreign courts in examining domestic issues.”

Well, let me conclude by saying I find disturbing this attitude and these expressions of support for foreign laws and treaties that we have not ratified, particularly when they are used to interpret what the U.S. Constitution means. The brave men and women of our Armed Forces are putting their lives on the line in order to champion freedom and democracy, not just for the American people but for people all around the world. America today is the world's leading champion of freedom and democracy. I raise this issue, and I have filed a resolution for the consideration of my colleagues on this issue. I speak about it today at some length because I believe this is an important matter for the American people to know about and to have a chance to speak out on.

I believe the American people—certainly the people in Texas—do not want their courts to make political decisions. They want their courts to follow and apply the law as written. I believe the American people do not want their courts to follow the precedents of foreign courts. They want their courts to follow U.S. laws and U.S. precedents. The American people do not want their laws controlled by foreign governments. They want their laws controlled by the American Government, which serves the American people. The American people do not want to see American law and American policy outsourced to foreign governments and foreign courts.

So I have submitted a resolution to give this body the opportunity to state for the record that this trend in our courts is wrong and that American law should never be reversed or rejected simply because a foreign government or a foreign court may disagree with it. This resolution is nearly identical to one that has been introduced by my colleague in the House, Congressman TOM FEENEY. I applaud his leadership and efforts in this area, and I hope both the House and Senate will come together and follow the footsteps of our Founding Fathers, to once again defend our rights as Americans to dictate the policies of our Government—informed but never dictated by the preferences of any foreign government or tribunal.

Mr. President, I yield the floor.  
The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

#### HONORING POPE JOHN PAUL II

Mr. COLEMAN. Mr. President, I appreciate the opportunity to pay my respects to a simple, humble man who achieved historic greatness—Pope John Paul II. The Archbishop of Minneapolis-St. Paul, Harry Flynn, had a